

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of: MATOS, Paulo, et al.

Serial No: 10/632,517

Examiner: Armstrong, A.

Filing Date: July 31, 2003

Group Art Unit: 2626

Conf. 4344

For: SYSTEM AND METHOD FOR ENABLING AUTOMATED DIALOGS

DECLARATION IN SUPPORT OF PETITION UNDER, 37 C.F.R. §1.78(c)

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Each of the undersigned declarants hereby collectively and individually declares as follows in support of the petition under 37 C.F.R. §1.78(c) filed July 18, 2008 for acceptance of applicant's claim under 35 U.S.C. §1.119(e) to the priority of US Provisional patent application SN 60/399,834, filed July 31, 2002:

(1) I am a co-inventor and personally participated in the preparation and filing of provisional application 60/399,834 on July 31, 2002, and also present application SN 10/632,517 on July 31, 2003. I have personal knowledge of the matters alleged in this Declaration.

(2) When filing the provisional application 60/399,834, and up to the point of filing nonprovisional application SN 10/632,517, I was informed and aware that it would be necessary to file the nonprovisional application within one year after the provisional filing date in order to claim the priority of the provisional application. I worked with counsel to meet the one year deadline. The one year deadline was met, by filing nonprovisional application SN 10/632,517 on July 31, 2003.

(3) I believed when filing nonprovisional application SN 10/632,517 on July 31, 2003 that whatever was necessary to claim the priority of the provisional application had been done.

(4) Responsibility for the application was subsequently transferred to new counsel.

(5) The new counsel who had assumed responsibility for the nonprovisional application in March 2008 told us when the matter of the provisional application was raised in conversation, that no claim of priority to a provisional application appeared to have been made in the application file.

(6) Upon investigating and learning that statements necessary to claim priority of the provisional application apparently had not been made, I cooperated in making such statements, including by directing the filing of an amendment on April 14, 2008 to insert a cross reference to the provisional application into the Specification and to submit an application data sheet stating the claim of priority to the provisional application.

(7) Notwithstanding applicant's insertion of a claim to the priority of the provisional application, in the next official action, dated July 10, 2008, the Examiner responsible for the nonprovisional application cited for the first time and relied in a rejection upon a new prior art reference that failed to predate the filing date of applicant's provisional application. The Examiner did not acknowledge or respond to the claim of priority that had been made. After further investigation, I cooperated in submitting a supplemental inventors' Declaration on July 18, 2008, and with filing of the subject Petition under 37 C.F.R. §1.78(c).

(8) I hereby state from personal knowledge that the entire delay between the date the claim of priority might have been timely filed under 37 C.F.R. §1.78(b)(4), and the date the claim was filed, was unintentional.

And each of the undersigned hereby declares that all statements made herein of his own knowledge are true, and all statements made on information and belief are believed to be true, and further that these statements are made with the knowledge that willful false statements and the like so made are punishable under 18 U.S.C. §1001 by fine or imprisonment, or both, and may jeopardize the validity of the application and any patent that may be granted thereon.

Date: 9/25/08

By: Paulo Matos  
Paulo Matos

Date: 9/25/08

By: Brian O'Connor  
Brian O'Connor

Attorney Docket No. U1656-00007